IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
TUESDAY, THE FIFTH DAY OF APRIL,
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No. 7380 of 2005

Between:

M/s.Mubarak Industries,

H.No.23/131/A1/, 23rd Ward,

Nandikotkur village and mandal, Kurnool District,

Rep.by its Proprietor S.Md.Haneef S/o.S.Allabakash.

..... PETITIONER

AND

1. The District Collector (Panchayat Wing), Kurnool, Kurnool District.
2. The General Manager, District Industries Centre, B-Camp, Kurnool-2.
3. The Environmental Engineer, A.P.Pollution Control Board, Zonal Office, Kurnool.
4. The I.P.O., Nandikotkur, Kurnool District.
5. The Gram Panchayat, Nandikotkur, Kurnool District, rep. by its Secretary.
6. Smt.Aktharunnisa, W/o.late S.A.Karim, R/o.D.No.23/131/A3, 23rd Ward, Nandikotkur village and mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ or order or direction, more particularly one in the nature of Writ of

Mandamus declaring the action of the 2nd respondent in issuing the proceedings in Rc.No.4754/A3/2004, dated 28.03.2005 and consequential notice issued by the 5th respondent in R.C.No.31/2003 dated 31.03.2005, are void, nonest, irregular, unjust, legally unsustainable and violative of principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: MR.C.PRAKASH REDDY

Counsel for the Respondent No.1: G.P. FOR PANCHAYAT RAJ

Counsel for the Respondent No.2: G.P. for Industries.

Counsel for the Respondent No.3 : MR. S.V.BHATT, S.C. FOR POLLUTION CONTROL BOARD.

Counsel for the Respondent No.4: NONE APPEARED.

Counsel for the Respondent No.5: MR. G.SRINIVAS, S.C. FOR GRAM PANCHAYAT, NANDIKOTKUR.

Counsel for the Respondent No.6: MR. K.V.RAGHUVEER.

The Court at the stage of admission made the following :

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ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for Panchayat Raj & Rural Development appearing for the respondents 1 and 2.

This writ petition is filed aggrieved by the order passed by the second respondent dated 28-03-2005 as well as the consequential notice issued by the fifth respondent dated 31-03-2005.

Under the impugned proceedings, dated 28-3-2005, the second respondent has cancelled the Acknowledgment dated 21-02-2003 issued to the petitioner to establish and to operate the Unit at Nandikotkur for the line of activity of Poha and Flour Grinder. It appears that subsequently as per the instructions issued by the Collector (Panchayat Wing) dated 19-03-2005 in pursuance of the objections raised by 23rd ward people about the alleged pollution being caused in the petitioner unit, the impugned order has been passed by the second respondent. Basing on the said order, the fifth respondent Gram Panchayat directed the petitioner to remove the unit

from Door No.23/131-A and shift to some other place.

The contention of the petitioner is that before passing the said order, the petitioner was not afforded any opportunity to rebut the allegations made and therefore the impugned action is in violation of the principles of natural justice. It is also contended that on the very same complaint made by 23rd ward people, the Appellate Authority under Water (Prevention and Control of Pollution) Act, 1974 allowed the Appeal of the petitioner and directed the petitioner unit to carry on operations as usual. Hence, the impugned order is unwarranted.

On a perusal of the impugned proceedings, dated 28-03-2005, it is clear that before passing the order the petitioner was not issued any notice. In the circumstances, I am not inclined to express any opinion with regard to the other contentions raised by the petitioner, but it would be appropriate to dispose of the writ petition granting liberty to the petitioner to submit his explanation treating the impugned proceedings dated 28-3-2005 as a show-cause notice.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioner to submit his explanation within a period of two weeks from the date of receipt of this order, in which event, the same shall be considered by the 2nd respondent and appropriate orders be passed afresh in accordance with law. Till such time, no coercive steps shall be taken against the petitioner. No order as to costs.

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05th April, 2005.

Note:- CC in 2 days.

(B/O)

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To

1.The District Collector (Panchayat Wing), Kurnool, Kurnool District.

2.The General Manager, District Industries Centre, B-Camp, Kurnool-2.

3.The Environmental Engineer, A.P.Pollution Control Board, Zonal Office, Kurnool.

4.The I.P.O., Nandikotkur, Kurnool District.

5.The Secretary, Gram Panchayat, Nandikotkur, Kurnool District.

6.Two C.Cs. to the Government Pleader for Panchayat Raj, High Court Buildings, Hyderabad. (O.U.T.)

7.Two C.Cs. to the Government Pleader for Industries, High Court Buildings, Hyderabad. (O.U.T.)

8. Two C.D. copies.